



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COPY MAILED

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

MAR 30 2009

OFFICE OF PETITIONS

In re Application of :
Meir : DECISION ON PETITION
Application No. 10/601,455 :
Filed: June 23, 2003 :
For: COD5001 :
:

This is a decision on the petition to expunge under 37 CFR 1.59(b), filed February 5, 2009.

The petition under 37 CFR 1.59(b) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.59(b)." This is not a final agency decision.

Petitioner requests that the Office expunge the documents submitted on January 12, 2009, which includes a Notice of Appeal. Petitioner states that the Notice of Appeal was submitted unintentionally.

In view thereof, petitioners request that the Notice of Appeal dated January 12, 2009 be expunged from the application file.

In accordance with 37 CFR 1.59(b), "[a]n applicant may request that the Office expunge information, other than what is excluded by paragraph (a)(2) of this section, by filing a petition under this paragraph. Any petition to expunge information from an application must include the fee set forth in § 1.17(g) and establish to the satisfaction of the Director that the expungement of the information is appropriate in which case a notice granting the petition for expungement will be provided."

In accordance with MPEP 724.05, "[a] petition to expunge information unintentionally submitted in an application (other

than information forming part of the original disclosure) may be filed under 37 CFR 1.59(b), provided that: (A) the Office can effect such return prior to the issuance of any patent on the application in issue; (B) it is stated that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted; (C) the information has not otherwise been made public; (D) there is a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted; (E) it is established to the satisfaction of the Director that the information to be returned is not material information under 37 CFR 1.56; and (F) the petition fee as set forth in 37 CFR 1.17(g) is included."

The instant petition fails to satisfy items (B).

As to item (B), petitioner has failed to establish the failure to expunge the Notice of Appeal will cause irreparable harm. It is noted that this was a second Notice of Appeal, as the first Notice was filed on December 11, 2008. Nonetheless, the goal of the Office is to maintain as complete a file as possible.

Accordingly, expungement of the documents filed January 22, 2009 is not deemed appropriate.

Further correspondence with respect to this matter should be addressed as follows:

By mail:

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile:

(571) 273-8300

By hand delivery:

U.S. Patent and Trademark Office
Customer Window, **Mail Stop Petition**
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to
the undersigned at (571) 272-3215.

Charlema Grant

Charlema Grant
Petitions Attorney
Office of Petitions